

113TH CONGRESS
1ST SESSION

H. R. 2134

To provide an election for funding parity for charity-sponsored pension plans.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2013

Mrs. BROOKS of Indiana (for herself and Mr. KIND) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide an election for funding parity for charity-sponsored pension plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Charitable Pension
5 Flexibility Act of 2013”.

6 **SEC. 2. ELECTION TO CEASE TO BE TREATED AS AN ELIGI-**

7 **BLE CHARITY PLAN.**

8 (a) IN GENERAL.—Subsection (d) of section 104 of
9 the Pension Protection Act of 2006, as added by section

1 202 of the Preservation of Access to Care for Medicare
2 Beneficiaries and Pension Relief Act of 2010, is amended
3 by—

4 (1) striking “For purposes of” and inserting
5 “(1) IN GENERAL.—For purposes of”, and
6 (2) adding at the end the following:

7 “(2) ELECTION NOT TO BE AN ELIGIBLE CHAR-
8 ITY PLAN.—A plan sponsor may elect for a plan to
9 cease to be treated as an eligible charity plan for
10 plan years beginning after December 31, 2013. Such
11 election shall be made at such time and in such form
12 and manner as shall be prescribed by the Secretary
13 of the Treasury. Any such election may be revoked
14 only with the consent of the Secretary of the Treas-
15 urey.

16 “(3) ELECTION TO USE FUNDING OPTIONS
17 AVAILABLE TO OTHER PLAN SPONSORS.—

18 “(A) IN GENERAL.—A plan sponsor that
19 makes the election described in paragraph (2)
20 may also elect for a plan to apply the rules de-
21 scribed in subparagraphs (B), (C), and (D) for
22 plan years beginning after December 31, 2013.
23 Such election shall be made at such time and
24 in such form and manner as shall be prescribed
25 by the Secretary of the Treasury. Any such

1 election may be revoked only with the consent
2 of the Secretary of the Treasury.

3 “(B) APPLICABLE SHORTFALL AMORTIZA-
4 TION BASES.—Under the rules described in this
5 subparagraph, for the first plan year beginning
6 after December 31, 2013, a plan has—

7 “(i) an 11-year shortfall amortization
8 base,

9 “(ii) a 12-year shortfall amortization
10 base, and

11 “(iii) a 7-year shortfall amortization
12 base.

13 “(C) DETERMINATION OF INSTALL-
14 MENTS.—Under the rules described in this sub-
15 paragraph, section 430(c)(2)(A) and (B) of the
16 Internal Revenue Code of 1986 and section
17 303(c)(2)(A) and (B) of the Employee Retire-
18 ment Income Security Act of 1974 shall be ap-
19 plied—

20 “(i) in the case of an 11-year shortfall
21 amortization base, by substituting ‘11-
22 plan-year period’ for ‘7-plan-year period’
23 wherever it appears, and

24 “(ii) in the case a 12-year shortfall
25 amortization base, by substituting ‘12-

1 plan-year period' for '7-plan-year period'
2 wherever it appears.

3 “(D) ALTERNATE REQUIRED INSTALL-
4 MENTS.—Under the rules described in this sub-
5 paragraph, section 430(c)(7) of the Internal
6 Revenue Code of 1986 and section 303(c)(7) of
7 the Employee Retirement Income Security Act
8 of 1974 shall apply to a plan for which an elec-
9 tion has been made under subparagraph (A).
10 Such provisions shall apply in the following
11 manner:

12 “(i) The first plan year beginning
13 after December 31, 2013, shall be treated
14 as an election year, and no other plan
15 years shall be so treated.

16 “(ii) All references in section
17 430(c)(7) of such Code and in section
18 303(c)(7) of such Act to 'February 28,
19 2010' or 'March 1, 2010' shall be treated
20 as references to 'February 28, 2013' or
21 'March 1, 2013', respectively.

22 “(E) 11-YEAR SHORTFALL AMORTIZATION
23 BASE.—For purposes of this paragraph, the 11-
24 year shortfall amortization base is an amount,
25 determined for the first plan year beginning

1 after December 31, 2013, equal to the
2 unamortized principal amount of the shortfall
3 amortization base (as defined in section
4 430(c)(3) of the Internal Revenue Code of 1986
5 and section 303(c)(3) of the Employee Retire-
6 ment Income Security Act of 1974) that would
7 have applied to the plan for the first plan year
8 beginning after December 31, 2009, if—

9 “(i) the plan had never been an eligi-
10 ble charity plan.

11 “(ii) the plan sponsor had made the
12 election described in section
13 430(c)(2)(D)(i) of the Internal Revenue
14 Code of 1986 and in section
15 303(c)(2)(D)(i) of the Employee Retire-
16 ment Income Security Act of 1974 to have
17 section 430(c)(2)(D)(iii) of such Code and
18 section 303(c)(2)(D)(iii) of such Act apply
19 with respect to the shortfall amortization
20 base for the first plan year beginning after
21 December 31, 2009, and

22 “(iii) no event had occurred under
23 paragraph (6) or (7) of section 430(c) of
24 such Code or paragraph (6) or (7) of sec-
25 tion 303(c) of such Act that, as of the first

1 day of the first plan year beginning after
2 December 31, 2013, would have modified
3 the shortfall amortization base or the
4 shortfall amortization installments with re-
5 spect to the first plan year beginning after
6 December 31, 2009.

7 “(F) 12-YEAR SHORTFALL AMORTIZATION
8 BASE.—For purposes of this paragraph, the 12-
9 year shortfall amortization base is an amount,
10 determined for the first plan year beginning
11 after December 31, 2013, equal to the
12 unamortized principal amount of the shortfall
13 amortization base (as defined in section
14 430(c)(3) of the Internal Revenue Code of 1986
15 and section 303(c)(3) of the Employee Retire-
16 ment Income Security Act of 1974) that would
17 have applied to the plan for the first plan be-
18 ginning after December 31, 2010, if—

19 “(i) the plan had never been an eligi-
20 ble charity plan,

21 “(ii) the plan sponsor had made the
22 election described in section
23 430(c)(2)(D)(i) of the Internal Revenue
24 Code of 1986 and in section
25 303(c)(2)(D)(i) of the Employee Retire-

7 “(iii) no event had occurred under
8 paragraph (6) or (7) of section 430(c) of
9 such Code or paragraph (6) or (7) of sec-
10 tion 303(c) of such Act that, as of the first
11 day of the first plan year beginning after
12 December 31, 2013, would have modified
13 the shortfall amortization base or the
14 shortfall amortization installments with re-
15 spect to the first plan year beginning after
16 December 31, 2010.

17 “(G) 7-YEAR SHORTFALL AMORTIZATION
18 BASE.—For purposes of this paragraph, the 7-
19 year shortfall amortization base is an amount,
20 determined for the first plan year beginning
21 after December 31, 2013, equal to—

22 “(i) the shortfall amortization base for
23 the first plan year beginning after Decem-
24 ber 31, 2013, without regard to this para-
25 graph, minus

1 “(ii) the sum of the 11-year shortfall
2 amortization base and the 12-year shortfall
3 amortization base.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act.

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